



INTERIOR BOARD OF INDIAN APPEALS

Alan Gibbons v. Acting Anadarko Area Director, Bureau of Indian Affairs

26 IBIA 128 (07/18/1994)



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
4015 WILSON BOULEVARD
ARLINGTON, VA 22203

ALAN GIBBONS,	:	Order Vacating Decision in Part
Appellant	:	and Remanding Case
	:	
v.	:	
	:	Docket No. IBIA 94-130-A
ACTING ANADARKO AREA DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	July 18, 1994

Appellant Alan Gibbons sought review of that part of a May 11, 1994, decision issued by the Acting Anadarko Area Director, Bureau of Indian Affairs (Area Director; BIA), which cancelled farm and grazing leases #42539 and 044044. For the reasons discussed below, the Board of Indian Appeals (Board) vacates that decision as it relates to this appeal, and remands this matter to the Area Director for further action.

On July 15, 1994, the Board received a copy of a July 6, 1994, letter from the Area Director to appellant. That letter states at page 1:

[After receiving notice of your appeal,] Anadarko Agency staff reviewed the proof of payment [of rental] you sent to the Board, and are satisfied that the two leases have been paid for 1994. The Agency has requested the Area Director to overturn the decision to cancel Leases 42539 and 044044.

Based on the Agency's recommendation, the cancellation of Lease #044044 is overturned. Based on the Agency's recommendation and the negotiated settlement between Nellie Perry (attorney for [appellant] in Chap. 7 Bankruptcy, BK No. 94-12486-BH) and Steve Mullins, Office of the U.S. Attorney, Lease #42539 shall terminate effective immediately, but [appellant] shall retain the 18 acres of cotton and 29 acres of pasture until December 31, 1994.

By copy of this letter the Office of Hearings and Appeals is being notified of this decision.

The Board has consistently held that once an appeal has been filed with it, BIA loses jurisdiction over the matter except to participate in the appeal as a party. The reasons for this rule were extensively discussed in Five Sandoval Indian Pueblos, Inc. v. Deputy Commissioner of Indian Affairs, 21 IBIA 17, 18-19 (1991), and will not be repeated here, except to comment that the rule is part of all orderly review processes (including BIA's), and is intended to ensure that only one forum at a time has authority to act in a matter. See also United Auburn Indian Community v. Sacramento Area Director, 24 IBIA 33, 38-39 (1993); Cherokee Nation of Oklahoma v. Muskogee Area Director, 22 IBIA 240, 244 (1992).

In accordance with the Board's consistent rulings, the Area Director's letter of July 6, 1994, is without force or effect. However, the Board will treat the letter as a confession of error and request for remand of the case in order to grant the relief requested.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, the Anadarko Area Director's May 11, 1994, decision is vacated as it relates to Leases # #42539 and 044044, and this case is remanded to him for further action.

//original signed

Kathryn A. Lynn
Chief Administrative Judge

//original signed

Anita Vogt
Administrative Judge